

Exhibit No. 5Amendments to Senate Bill No. 328
1st Reading CopyDate 3-17-11Bill No. SB 328

Requested by Senator Dave Lewis

For the Senate Finance and Claims Committee

Prepared by Rachel Weiss
February 21, 2011 (4:03pm)

1. Title, page 1, line 13.

Following: "19-2-715,"**Insert:** "19-3-108,"

2. Page 11, line 2 through line 3.

Strike: subsection (29) in its entirety**Renumber:** subsequent subsections

3. Page 13, line 12.

Strike: "(52)"**Insert:** "(51)"

4. Page 13, line 21.

Strike: "19-21-2117(2)"**Insert:** "19-3-2117(2)"

5. Page 17, line 1.

Insert: "**Section 10.** Section 19-3-108, MCA, is amended to read:**"19-3-108. Definitions.** Unless the context requires otherwise, as used in this chapter, the following definitions apply:

(1) (a) "Compensation" means remuneration paid out of funds controlled by an employer in payment for the member's services, or for time during which the member is excused from work because of a holiday or because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence, before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) the contributions made pursuant to 19-3-403(4)(a) for members of a bargaining unit;

(ii) in-kind goods provided by the employer, such as uniforms, housing, transportation, or meals;

(iii) in-kind services, such as the retraining allowance paid pursuant to 2-18-622, or employment-related services;

(iv) contributions to group insurance, such as that provided under 2-18-701 through 2-18-704; and

(v) lump-sum payments for compensatory leave, sick leave, or annual leave paid without termination of employment.

(2) "Contracting employer" means any political subdivision or governmental entity that has contracted to come into the

system under this chapter.

(3) "Defined benefit plan" means the plan within the public employees' retirement system established in 19-3-103 that is not the defined contribution plan.

(4) "Employer" means the state of Montana, its university system or any of the colleges, schools, components, or units of the university system for the purposes of this chapter, or any contracting employer.

(5) "Employer contributions" means payments to a pension trust fund pursuant to 19-3-316 from appropriations of the state of Montana and from contracting employers.

(6) (a) "Highest average compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service, except as otherwise provided in subsection (6)(b) or (6)(c).

(b) For a member who has attained 65 years of age but has not served at least 36 months, highest average compensation means total compensation earned divided by the number of months the member has served.

(c) For a vested member who does not have 36 consecutive months of membership service, highest average compensation means the highest total compensation earned during any 36 consecutive calendar months divided by 36.

(d) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

(7) "Initially hired" means the earliest date on which an individual is first hired into or employed in a covered position, which may not necessarily be an employee's current covered position.

~~(7)~~(8) "System" or "retirement system" means the public employees' retirement system established in 19-3-103."

{Internal References to 19-3-108:

19-3-2141 x 19-3-2141 x}"

Renumber: subsequent sections

6. Page 31, line 25.

Following: "~~19-3-2116,~~"

Insert: "(a) the member must have at least 5 years of membership service under the system;"

Renumber: subsequent subsections

7. Page 34, line 1.

Strike: "26"

Insert: "27"

Strike: "27"

Insert: "28"

8. Page 34, line 2.

Strike: "27"

Insert: "28"

- END -